

General Assembly

Raised Bill No. 927

January Session, 2019

LCO No. 4297



Referred to Committee on BANKING

Introduced by: (BA)

AN ACT CREATING THE ENVIRONMENTAL INFRASTRUCTURE FUND WITHIN THE CONNECTICUT GREEN BANK.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 16-245n of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective October 1, 2019*):
- 3 (a) For purposes of this section: [, "clean energy"]
- 4 (1) "Clean energy" means solar photovoltaic energy, solar thermal,
- 5 geothermal energy, wind, ocean thermal energy, wave or tidal energy,
- 6 fuel cells, landfill gas, hydropower that meets the low-impact
- 7 standards of the Low-Impact Hydropower Institute, hydrogen
- 8 production and hydrogen conversion technologies, low emission
- 9 advanced biomass conversion technologies, alternative fuels, used for
- 10 electricity generation including ethanol, biodiesel or other fuel
- 11 produced in Connecticut and derived from agricultural produce, food
- 12 waste or waste vegetable oil, provided the Commissioner of Energy
- and Environmental Protection determines that such fuels provide net
- 14 reductions in greenhouse gas emissions and fossil fuel consumption,

LCO No. 4297 **1** of 15

renewable energy source, as defined in section 16-1; [.] and

- (2) "Environmental infrastructure" means infrastructure, facilities and improvement projects related to water, waste and recycling, zero-emission vehicle refueling, climate adaptation and resiliency, agriculture, land conservation, parks and recreation, and other environmental markets.
- (b) On and after July 1, 2004, the Public Utilities Regulatory Authority shall assess or cause to be assessed a charge of not less than one mill per kilowatt hour charged to each end use customer of electric services in this state which shall be deposited into the Clean Energy Fund established under subsection (c) of this section.
- (c) (1) There is hereby created a Clean Energy Fund which shall be within the Connecticut Green Bank. The fund may receive any amount required by law to be deposited into the fund and may receive any federal funds as may become available to the state for clean energy investments. Upon authorization of the Connecticut Green Bank established pursuant to subsection (d) of this section, any amount in said fund may be used for expenditures that promote investment in clean energy in accordance with a comprehensive plan developed by it to foster the growth, development and commercialization of clean energy sources, related enterprises and stimulate demand for clean energy and deployment of clean energy sources that serve end use customers in this state and for the further purpose of supporting operational demonstration projects for advanced technologies that

LCO No. 4297 **2** of 15

reduce energy use from traditional sources. Such expenditures may include, but not be limited to, providing low-cost financing and credit enhancement mechanisms for clean energy projects and technologies, reimbursement of the operating expenses, including administrative expenses incurred by the Connecticut Green Bank and Connecticut Innovations, Incorporated, and capital costs incurred by the Connecticut Green Bank in connection with the operation of the fund, the implementation of the plan developed pursuant to subsection (d) of this section or the other permitted activities of the Connecticut Green Bank, disbursements from the fund to develop and carry out the plan developed pursuant to subsection (d) of this section, grants, direct or equity investments, contracts or other actions which support research, development, manufacture, commercialization, deployment and installation of clean energy technologies, and actions which expand the expertise of individuals, businesses and lending institutions with regard to clean energy technologies.

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67 68

69

70

71

72

73

74

75

76

77

78

79

80

81

(2) There is hereby created an Environmental Infrastructure Fund which shall be within the Connecticut Green Bank. The fund may receive any amount required by law to be deposited into the fund and may receive any federal funds as may become available to the state for environmental infrastructure investments. Upon authorization of the Connecticut Green Bank established pursuant to subsection (d) of this section, any amount in said fund may be used for expenditures that promote investment in environmental infrastructure in accordance with a comprehensive plan developed by it to foster the growth, development and, where applicable, preservation of environmental infrastructure. Such expenditures may include, but not be limited to, providing low-cost financing and credit enhancement mechanisms for projects and technologies, reimbursement of the operating expenses, including administrative expenses incurred by the Connecticut Green Bank, and capital costs incurred by the Connecticut Green Bank in connection with the operation of the fund, the implementation of the plan developed pursuant to subsection (d) of this section or the other permitted activities of the Connecticut Green Bank, disbursements

LCO No. 4297 3 of 15

from the fund to develop and carry out the plan developed pursuant to subsection (d) of this section, grants, direct or equity investments, contracts or other actions which support research, development, manufacture, commercialization, deployment and installation of environmental infrastructure, and actions which expand the expertise of individuals, businesses and lending institutions with regard to environmental infrastructure. No ratepayer or Regional Greenhouse Gas Emission funds shall be deposited into such Environmental Infrastructure Fund.

- (d) (1) (A) The Connecticut Green Bank is hereby established and created as a body politic and corporate, constituting a public instrumentality and political subdivision of the state of Connecticut established and created for the performance of an essential public and governmental function. The Connecticut Green Bank shall not be construed to be a department, institution or agency of the state.
- (B) The Connecticut Green Bank shall (i) develop separate programs to finance and otherwise support clean energy <u>and environmental infrastructure</u> investment in residential, municipal, small business and larger commercial projects and such others as the Connecticut Green Bank may determine; (ii) support financing or other expenditures that promote investment in clean energy sources <u>and environmental infrastructure</u> in accordance with a comprehensive plan developed by it to foster the growth, development and commercialization of clean energy sources, <u>environmental infrastructure</u> and related enterprises; and (iii) stimulate demand for clean energy and the deployment of clean energy sources within the state that serve end use customers in the state.
- (C) The Clean Energy Finance and Investment Authority shall constitute a successor agency to Connecticut Innovations, Incorporated, for the purposes of administering the Clean Energy Fund in accordance with section 4-38d. The Connecticut Green Bank shall constitute a successor agency to the Clean Energy Finance and Investment Authority for purposes of administering the Clean Energy

LCO No. 4297 **4** of 15

Fund in accordance with section 4-38d and for the purpose of administering the Environmental Infrastructure Fund. The Connecticut Green Bank shall have all the privileges, immunities, tax exemptions and other exemptions of Connecticut Innovations, Incorporated, with respect to said fund. The Connecticut Green Bank shall be subject to suit and liability solely from the assets, revenues and resources of said bank and without recourse to the general funds, revenues, resources or other assets of Connecticut Innovations, Incorporated. The Connecticut Green Bank may provide financial assistance in the form of grants, loans, loan guarantees or debt and equity investments, as approved in accordance with written procedures adopted pursuant to section 1-121. The Connecticut Green Bank may assume or take title to any real property, convey or dispose of its assets and pledge its revenues to secure any borrowing, convey or dispose of its assets and pledge its revenues to secure any borrowing, for the purpose of developing, acquiring, constructing, refinancing, rehabilitating or improving its assets or supporting its programs, provided each such borrowing or mortgage, unless otherwise provided by the board or said bank, shall be a special obligation of said bank, which obligation may be in the form of bonds, bond anticipation notes or other obligations which evidence an indebtedness to the extent permitted under this chapter to fund, refinance and refund the same and provide for the rights of holders thereof, and to secure the same by pledge of revenues, notes and mortgages of others, and which shall be payable solely from the assets, revenues and other resources of said bank and such bonds may be secured by a special capital reserve fund contributed to by the state. The Connecticut Green Bank shall have the purposes as provided by resolution of said bank's board of directors, which purposes shall be consistent with this section. No further action is required for the establishment of the Connecticut Green Bank, except the adoption of a resolution for said bank.

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

(D) In addition to, and not in limitation of, any other power of the Connecticut Green Bank set forth in this section or any other provision of the general statutes, said bank shall have and may exercise the

LCO No. 4297 5 of 15

- 149 following powers in furtherance of or in carrying out its purposes:
- (i) To have perpetual succession as a body corporate and to adopt bylaws, policies and procedures for the regulation of its affairs and the
- 152 conduct of its business;

175

176

177

- (ii) To make and enter into all contracts and agreements that are necessary or incidental to the conduct of its business;
- (iii) To invest in, acquire, lease, purchase, own, manage, hold, sell and dispose of real or personal property or any interest therein;
- (iv) To borrow money or guarantee a return to investors or lenders;
- (v) To hold patents, copyrights, trademarks, marketing rights, licenses or other rights in intellectual property;
- 160 (vi) To employ such assistants, agents and employees as may be 161 necessary or desirable, who shall be exempt from the classified service 162 and shall not be employees, as defined in subsection (b) of section 5-163 270; establish all necessary or appropriate personnel practices and 164 policies, including those relating to hiring, promotion, compensation 165 and retirement, and said bank shall not be an employer, as defined in 166 subsection (a) of section 5-270; and engage consultants, attorneys, 167 financial advisers, appraisers and other professional advisers as may 168 be necessary or desirable;
- (vii) To invest any funds not needed for immediate use or disbursement pursuant to investment policies adopted by said bank's board of directors;
- (viii) To procure insurance against any loss or liability with respect to its property or business of such types, in such amounts and from such insurers as it deems desirable;
 - (ix) To enter into joint ventures and invest in, and participate with any person, including, without limitation, government entities and private corporations, in the formation, ownership, management and

LCO No. 4297 6 of 15

(x) To enter into a memorandum of understanding or other arrangements with Connecticut Innovations, Incorporated, with respect to the provision or sharing of space, office systems or staff administrative support, on such terms as may be agreed to between said bank and Connecticut Innovations, Incorporated; and

- (xi) To do all other acts and things necessary or convenient to carry out the purposes of said bank.
- (E) (i) The Connecticut Green Bank may form one or more subsidiaries to carry out the purposes of said bank, as described in subparagraph (B) of subdivision (1) of this subsection, and may transfer to any such subsidiary any moneys and real or personal property of any kind or nature. Any subsidiary may be organized as a stock or nonstock corporation or a limited liability company. Each such subsidiary shall have and may exercise such powers of said bank, as set forth in the resolution of the board of directors of said bank prescribing the purposes for which such subsidiary is formed, and such other powers provided to it by law.
- (ii) No such subsidiary of said bank shall be deemed a quasi-public agency for purposes of chapter 12 and no such subsidiary shall have all the privileges, immunities, tax exemptions and other exemptions of said bank. In no event shall any such subsidiary have the power to hire or otherwise retain employees. The governing documents of any such

LCO No. 4297 **7** of 15

210 subsidiary shall provide for the dissolution of such subsidiary upon 211 the completion of the purpose for which such subsidiary was formed. 212 Each such subsidiary may sue and shall be subject to suit, provided its 213 liability shall be limited solely to the assets, revenues and resources of 214 the subsidiary and without recourse to the general funds, revenues, 215 resources or any other assets of said bank. Each such subsidiary is 216 authorized to assume or take title to property subject to any existing 217 lien, encumbrance or mortgage and to mortgage, convey or dispose of 218 its assets and pledge its revenues to secure any borrowing, provided 219 each such borrowing or mortgage shall be a special obligation of the 220 subsidiary, which obligation may be in the form of bonds, bond 221 anticipation notes and other obligations, to fund and refund the same 222 and provide for the rights of the holders thereof, and to secure the 223 same by a pledge of revenues, notes and other assets and which shall 224 be payable solely from the revenues, assets and other resources of the 225 subsidiary. The Connecticut Green Bank may assign to a subsidiary 226 any rights, moneys or other assets it has under any governmental 227 program. No subsidiary of said bank shall borrow without the 228 approval of the board of directors of said bank.

(iii) Each such subsidiary shall act through its board of directors or managing members, at least one-half of which shall be members of the board of directors of said bank or their designees or officers or employees of said bank.

229

230

231

232

233

234

235

236

237

238

239

240

241

242

(iv) The provisions of section 1-125 and this subsection shall apply to any officer, director, designee or employee appointed as a member, director or officer of any such subsidiary. Any such person so appointed shall not be personally liable for the debts, obligations or liabilities of any such subsidiary as provided in section 1-125. The subsidiary shall, and said bank may, save harmless and indemnify such officer, director, designee or employee as provided by section 1-125.

(v) The Connecticut Green Bank, or such subsidiary, may take such actions as are necessary to comply with the provisions of the Internal

LCO No. 4297 8 of 15

- 243 Revenue Code of 1986, or any subsequent corresponding internal
- 244 revenue code of the United States, as amended from time to time, to
- 245 qualify and maintain any such subsidiary as a corporation exempt
- 246 from taxation under said code.
- (vi) The Connecticut Green Bank may make loans to each such subsidiary from its assets and the proceeds of its bonds, notes and other obligations, provided the source and security for the repayment of such loans is derived from the assets, revenues and resources of the
- 251 subsidiary.

267

268

269

270

271

- (2) (A) The Connecticut Green Bank may seek to qualify as a Community Development Financial Institution under Section 4702 of the United States Code. If approved as a Community Development
- 255 Financial Institution, said bank would be treated as a qualified
- 256 community development entity for purposes of Section 45D and
- 257 Section 1400N(m) of the Internal Revenue Code.
- (B) Before making any loan, loan guarantee, or such other form of financing support or risk management for a clean energy or environmental infrastructure project, the Connecticut Green Bank shall develop standards to govern the administration of said bank through rules, policies and procedures that specify borrower eligibility, terms and conditions of support, and other relevant criteria, standards or procedures.
- 265 (C) Funding sources specifically authorized include, but are not limited to:
 - (i) Funds repurposed from existing programs providing financing support for clean energy <u>and environmental infrastructure</u> projects, provided any transfer of funds from such existing programs shall be subject to approval by the General Assembly and shall be used for expenses of financing, grants and loans;
- 272 (ii) Any federal funds that can be used for the purposes specified in 273 subsection (c) of this section;

LCO No. 4297 9 of 15

274 (iii) Charitable gifts, grants, contributions as well as loans from 275 individuals, corporations, university endowments and philanthropic 276 foundations;

277

278

279

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

- (iv) Earnings and interest derived from financing support activities for clean energy and environmental infrastructure projects backed by the Connecticut Green Bank;
- 280 (v) If and to the extent that the Connecticut Green Bank qualifies as 281 a Community Development Financial Institution under Section 4702 of 282 the United States Code, funding from the Community Development 283 Financial Institution Fund administered by the United States 284 Department of Treasury, as well as loans from and investments by 285 depository institutions seeking to comply with their obligations under 286 the United States Community Reinvestment Act of 1977; and
 - (vi) The Connecticut Green Bank may enter into contracts with private sources to raise capital. The average rate of return on such debt or equity shall be set by the board of directors of said bank.
 - (D) The Connecticut Green Bank may provide financing support under this subsection if said bank determines that the amount to be financed by said bank and other nonequity financing sources do not exceed eighty per cent of the cost to develop and deploy a clean energy project or up to one hundred per cent of the cost of financing an energy efficiency project.
 - (E) The Connecticut Green Bank may assess reasonable fees on its financing activities to cover its reasonable costs and expenses, as determined by the board.
 - (F) The Connecticut Green Bank shall make information regarding the rates, terms and conditions for all of its financing support transactions available to the public for inspection, including formal annual reviews by both a private auditor conducted pursuant to subdivision (2) of subsection (f) of this section and the Comptroller, and providing details to the public on the Internet, provided public

LCO No. 4297 **10** of 15

305 disclosure shall be restricted for patentable ideas, trade secrets, 306 proprietary or confidential commercial or financial information, 307 disclosure of which may cause commercial harm 308 nongovernmental recipient of such financing support and for other 309 information exempt from public records disclosure pursuant to section 310 1-210.

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

- (3) No director, officer, employee or agent of the Connecticut Green Bank, while acting within the scope of his or her authority, shall be subject to any personal liability resulting from exercising or carrying out any of the Connecticut Green Bank's purposes or powers.
- (e) (1) The powers of the Connecticut Green Bank shall be vested in and exercised by a board of directors, which shall consist of eleven voting and two nonvoting members each with knowledge and expertise in matters related to the purpose and activities of said bank appointed as follows: The Treasurer or the Treasurer's designee, the Commissioner of Energy and Environmental Protection or the commissioner's designee and the Commissioner of Economic and Community Development or the commissioner's designee, each serving ex officio, one member who shall represent a residential or low-income group appointed by the speaker of the House of Representatives for a term of four years, one member who shall have experience in investment fund management appointed by the minority leader of the House of Representatives for a term of three years, one member who shall represent an environmental organization appointed by the president pro tempore of the Senate for a term of four years, and one member who shall have experience in the finance or deployment of renewable energy appointed by the minority leader of the Senate for a term of four years. Thereafter, such members of the General Assembly shall appoint members of the board to succeed such appointees whose terms expire and each member so appointed shall hold office for a period of four years from the first day of July in the year of his or her appointment. The Governor shall appoint four members to the board as follows: Two for two years who shall have experience in the finance of renewable energy; one for four years who

LCO No. 4297 **11** of 15 shall be a representative of a labor organization; and one who shall have experience in research and development or manufacturing of clean energy. Thereafter, the Governor shall appoint members of the board to succeed such appointees whose terms expire and each member so appointed shall hold office for a period of four years from the first day of July in the year of his or her appointment. The president of the Connecticut Green Bank shall be elected by the members of the board. The president of the Connecticut Green Bank shall serve on the board in an ex-officio, nonvoting capacity. The Governor shall appoint the chairperson of the board. The board shall elect from its members a vice chairperson and such other officers as it deems necessary and shall adopt such bylaws and procedures it deems necessary to carry out its functions. The board may establish committees and subcommittees as necessary to conduct its business.

(2) The members of the board of directors of the Connecticut Green Bank shall adopt written procedures, in accordance with the provisions of section 1-121, for: (A) Adopting an annual budget and plan of operations, including a requirement of board approval before the budget or plan may take effect; (B) hiring, dismissing, promoting and compensating employees of said bank, including an affirmative action policy and a requirement of board approval before a position may be created or a vacancy filled; (C) acquiring real and personal property and personal services, including a requirement of board approval for any nonbudgeted expenditure in excess of five thousand dollars; (D) contracting for financial, legal, bond underwriting and other professional services, including a requirement that said bank solicit proposals at least once every three years for each such service that it uses; (E) issuing and retiring bonds, bond anticipation notes and other obligations of said bank; (F) awarding loans, grants and other financial assistance, including eligibility criteria, the application process and the role played by said bank's staff and board of directors; and (G) the use of surplus funds to the extent authorized under this section or other provisions of the general statutes.

(3) No member of the board of directors of the Connecticut Green

LCO No. 4297 12 of 15

Bank shall be a trustee, director, partner or officer of any person, firm or corporation, or have a financial interest in a person, firm or corporation that participates in or otherwise receives support from programs developed, administered or otherwise supported by the Connecticut Green Bank. The holding of any such position as a trustee, director, partner or officer, or any financial interest by a member of the board of directors of the Connecticut Green Bank shall be deemed a conflict of interest, provided it shall not constitute a conflict of interest for a member of the board of directors of the Connecticut Green Bank to serve as a director, member or officer of a joint venture entered into by the Connecticut Green Bank pursuant to subsection (d) of this section.

- (f) (1) The board shall issue annually a report to the Department of Energy and Environmental Protection reviewing the activities of the Connecticut Green Bank in detail and shall provide a copy of such report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to energy, environment and commerce. The report shall include a description of the programs and activities undertaken during the reporting period jointly or in collaboration with the Energy Conservation and Load Management Funds established pursuant to section 16-245m.
- (2) The Clean Energy Fund and the Environmental Infrastructure Fund shall be audited annually. Such audits shall be conducted with generally accepted auditing standards by independent certified public accountants certified by the State Board of Accountancy. Such accountants may be the accountants for the Connecticut Green Bank.
- (3) Any entity that receives financing for a clean energy or environmental infrastructure project from the [fund] Clean Energy Fund or the Environmental Infrastructure Fund shall provide the board an annual statement, certified as correct by the chief financial officer of the recipient of such financing, setting forth all sources and uses of funds in such detail as may be required by the bank for such

LCO No. 4297 13 of 15

- project. The Connecticut Green Bank shall maintain any such audits for not less than five years. Residential projects for buildings with one to four dwelling units are exempt from this and any other annual auditing requirements, except that residential projects may be required to grant their utility companies' permission to release their usage data to the Connecticut Green Bank.
- 412 (g) There shall be a joint committee of the Energy Conservation 413 Management Board and the Connecticut Green Bank board of 414 directors, as provided in subdivision (2) of subsection (d) of section 16-415 245m.

416

417

418

419

420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

- (h) (1) The state of Connecticut does hereby pledge to and agree with any person with whom the Connecticut Green Bank may enter into contracts pursuant to the provisions of this section that the state will not limit or alter the rights hereby vested in said bank until such contracts and the obligations thereunder are fully met and performed on the part of said bank, provided nothing herein contained shall preclude such limitation or alteration if adequate provision shall be made by law for the protection of such persons entering into contracts with said bank. The pledge provided by this subsection shall be interpreted and applied broadly to effectuate and maintain the bank's financial capacity to perform its essential public and governmental function.
 - (2) The contracts and obligations thereunder of said bank shall be obligatory upon the bank, and the bank may appropriate in each year during the term of such contracts an amount of money that, together with other funds of the bank available for such purposes, shall be sufficient to pay such contracts and obligations or meet any contractual covenants or warranties.
- (i) The powers enumerated in this section shall be interpreted broadly to effectuate the purposes established in this section and shall not be construed as a limitation of powers.
- (j) To the extent that the provisions of this section are inconsistent

LCO No. 4297 14 of 15

with the provisions of any general statute or special act or parts thereof, the provisions of this section shall be deemed controlling.

Sec. 2. Subdivision (1) of subsection (f) of section 16-245n of the general statutes, as amended by section 22 of public act 18-50, is repealed and the following is substituted in lieu thereof (*Effective January* 1, 2020)

(f) (1) The board shall issue annually a report to the Department of Energy and Environmental Protection reviewing the activities of the Connecticut Green Bank in detail and shall provide a copy of such report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to energy, environment and commerce. The report shall include a description of the programs and activities undertaken during the reporting period jointly or in collaboration with the Conservation and Load Management Plan established pursuant to section 16-245m.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	16-245n
Sec. 2	January 1, 2020	16-245n(f)(1)

Statement of Purpose:

To create an environmental infrastructure fund within the Connecticut Green Bank.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

LCO No. 4297 15 of 15